Snow v. Doubleday et al Doc. 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHELE SNOW, Individually and On Behalf Of All Others Similarly Situated, Plaintiffs, - against - DOUBLEDAY, a division of RANDOM HOUSE, INC.; BANTAM DOUBLEDAY DELL PUBLISHING GROUP; RANDOM HOUSE, INC.; ANCHOR BOOKS, a division of RANDOM HOUSE, INC.; JAMES FREY, Defendants.	06 CV 00669 (RJH) (MHD)

DECLARATION IN SUPPORT OF
DEFENDANT'S MOTION TO STAY PROCEEDINGS PENDING
A DECISION BY THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

I, ELIZABETH A. MCNAMARA, under penalty of perjury, declare and state as follows:

1. I am a partner of Davis Wright Tremaine LLP, co-counsel for defendant Random House, Inc. ("Random House").[1] I am fully familiar with the facts stated herein.

2. I submit this declaration in support of Random House's motion to stay proceedings pending a decision by the Judicial Panel on Multidistrict Litigation ("JPML") on Random House's motion to transfer and consolidate this and eleven other pending federal class

[1] In addition to defendants Random House and James Frey, the complaint purports to name as defendants "Doubleday, a division of Random House, Inc.", "Bantam Doubleday Dell Publishing Group" and "Anchor Books, a division of Random House, Inc.", none of which are separate corporate entities. Doubleday, Bantam Doubleday Dell Publishing Group and Anchor Books are divisions of Random House, Inc. Defendant Random House will move at the appropriate time to have these alleged parties dismissed from the action.

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actions for coordinated pretrial proceedings (the "MDL Motion"). The purpose of this declaration is to submit documents relevant to this stay motion.

3. This case is one of eleven actions pending in federal courts across the country that all arise out of the publishing and marketing of the book "A Million Little Pieces" (the "Book"), written by defendant James Frey (the "AMLP Actions"). A schedule of actions involved (the "Schedule of Actions Involved") filed with the JPML is attached hereto as Exhibit A. In addition to this case, two other AMLP Actions are pending in this Court and one of those two actions has been referred to Judge Richard J. Holwell. Those two additional actions are: (1) *Floyd, et al. v. Doubleday, et al.*, 06 CV 00693 (GEL); and (2) *Marolda, et al. v. Frey, et al.*, 06 CV 01167(referred to Judge Holwell). Plaintiffs agreed to a stay of the proceedings pending a decision by the JPML on the MDL Motion in both the *Floyd* and the *Marolda* actions. [2]

4. This case was filed on January 27, 2006 in this Court.

5. On February 23, 2006, Random House filed the MDL Motion with the JPML. A true and correct copy of the MDL Motion and accompanying papers and exhibits is attached hereto as Exhibit B. The MDL Motion is currently docketed as *In re A Million Little Pieces Litigation*. *See id.*

Dated: New York, New York
February 28, 2006

ELIZABETH A. MCNAMARA

[2] At about the same time as this stay motion, plaintiffs in an action entitled *Cohn, et al. v. Frey and Random House, Inc.*, 06 CV 1360 (RJH), dismissed that action by stipulation.